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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,951	01/23/2001	Richter A. Rafey	80398.P602	4269
7590	06/05/2006		EXAMINER	
Sheryl Sue Holloway Blakely, Sokoloff, Taylor, & Zafman LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025			MANNING, JOHN	
		ART UNIT	PAPER NUMBER	
			2623	
DATE MAILED: 06/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/768,951	RAFEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Manning	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

## DETAILED ACTION

### ***Response to Appeal Brief***

1. In view of the Appeal Brief filed on February 17, 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600  
**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under

the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Maissel et al. (US Pat App Pub No 2003/0088872).

In regard to claim 19, the claimed steps of “sending a user profile to a new dedicated electronic device upon installation of the new dedicated electronic device in the interactive viewing system, the user profile providing a set of viewing preferences” and “modifying the user profile as a result of the installation of the new dedicated electronic media device” is met by Figure 2, Items 140 and 160 and Figure 3. “The optional viewer preference profile loading apparatus 160, if present, may be used to load a recorded viewer preference profile of another viewer, including a viewer who has used another apparatus, similar to that of FIG. 1, at a different time and place. Such a recorded viewer preference profile may be provided on any appropriate recording medium, may be broadcast via the television network, or may be delivered from profile storage apparatus by any appropriate means” (Paragraph 0204). “Optionally, the profile loading apparatus 160, if present, may also be operative to record a viewer preference profile on any appropriate recording medium such as, for example, a diskette or an appropriate smart card. The recorded viewer preference profile may then be provided to another viewer having apparatus similar to that of FIG. 1 for loading as described above” (Paragraph 0206; Also see Paragraphs 0184-0203).

In regard to claim 20, the claimed step of “the new dedicated electronic media device includes a unique identifier stored therein which automatically

modifies the user profile based on the information contained therein" is met by the stored profile of Maissel (See Paragraphs 0184-0185, 0196, 0198,0203).

In regard to claim 21, the recited steps are inherent to the reference. As disclosed, the profile may be loaded from the "base station" to the "electronic media element" or from the "electronic media element" to the "base station". It is inherent that the "electronic media element" and the "base station" have a "detection element" in order to allow the transfer of the profile (See Figures 2-3; Paragraphs 0204-0206).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5, 6-7, 10-11 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger (US Pat No 5,483,277) in view of Maissel et al.

In regard to claim 1, Granger discloses a simplified set-top converter for a broadband switched network with a removable tuner. The claimed limitation of "a base station" is met by Item 302 of Figure 6 and 7. The claimed limitation of "an electronic media element, the electronic media element including a dedicated tuner for receiving a broadcast signal" is met by Item 300 of Figure 6 and 7. Granger fails to explicitly disclose "memory for storing a user profile that provides

the viewing preferences of a user, the base station configured to send the user profile to a new electronic media element, to replace the user profile in the memory with a user profile modified with information in the new electronic media element and to provide a video signal to a display device" and "the electronic media element further including a local storage element for storing at least a portion of the user profile, and a processing element operative to generate the video signal provided to the display device by modifying the display characteristics of the broadcast signal in response to the user profile, wherein the video signal display characteristics are anonymously modified by the user profile". Maissel teaches "memory for storing a user profile that provides the viewing preferences of a user, the base station configured to send the user profile to a new electronic media element, to replace the user profile in the memory with a user profile modified with information in the new electronic media element and to provide a video signal to a display device" (See: Figure 2, Item 140; Figure 3) and "the electronic media element further including a local storage element for storing at least a portion of the user profile, and a processing element operative to generate the video signal provided to the display device by modifying the display characteristics of the broadcast signal in response to the user profile, wherein the video signal display characteristics are anonymously modified by the user profile" (See: Figure 2, Item 160; Figure 3) so as to allow the system select programs that may be of interest to the user and to make the profile of the user portable. "The optional viewer preference profile loading apparatus 160, if present, may be used to load a recorded viewer preference

profile of another viewer, including a viewer who has used another apparatus, similar to that of FIG. 1, at a different time and place. Such a recorded viewer preference profile may be provided on any appropriate recording medium, may be broadcast via the television network, or may be delivered from profile storage apparatus by any appropriate means" (Paragraph 0204). "Optionally, the profile loading apparatus 160, if present, may also be operative to record a viewer preference profile on any appropriate recording medium such as, for example, a diskette or an appropriate smart card. The recorded viewer preference profile may then be provided to another viewer having apparatus similar to that of FIG. 1 for loading as described above" (Paragraph 0206; Also see Paragraphs 0184-0203). Consequently, it would have been obvious to one of ordinary skill in the art to modify Granger with a "memory for storing a user profile that provides the viewing preferences of a user, the base station configured to send the user profile to a new electronic media element, to replace the user profile in the memory with a user profile modified with information in the new electronic media element and to provide a video signal to a display device" and "the electronic media element further including a local storage element for storing at least a portion of the user profile, and a processing element operative to generate the video signal provided to the display device by modifying the display characteristics of the broadcast signal in response to the user profile, wherein the video signal display characteristics are anonymously modified by the user profile" for the stated advantage.

In regard to claim 2, the claimed limitation that “the electronic media element is a service cartridge including a detection element” is inherent to the combined teaching. As disclosed, the profile may be loaded from the “base station” to the “electronic media element” or from the “electronic media element” to the “base station”. It is inherent that the “electronic media element” and the “base station” have a “detection element” in order to allow the transfer of the profile. The claimed limitation “the service cartridge having a unique identifier associated therewith stored in the local storage element” is met by the stored profile of Maissel. The claimed limitation “the display characteristics of the video signal are modified upon detection of the unique identifier of the service cartridge” is met by Figure 1 (See Paragraphs 0185-203 of Maissel).

In regard to claim 3, Maissel discloses the claimed limitation that “the broadcast signal is maintained in the local memory and modified in response to the user profile before the video signal is provided to the display device” (See Paragraphs 0184-0185, 0196, 0198,0203).

In regard to claim 5, Maissel discloses the claimed limitation that “the user profile is accessed and modified upon detection of the unique identifier of a new service cartridge”. The unique identifier is met by the user profile.

In regard to claims 6-7, the combined teaching discloses the use of a tuner operative to receive a specific broadcast signal and the use of a plurality of media storage elements (Paragraphs 0270-0275). The reference fails to explicitly disclose the use of a plurality of tuners. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use a plurality of

tuners concurrently receive multiple broadcast signals. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with a plurality of tuners for the stated advantage.

In regard to claim 10, the combined teaching fails to explicitly disclose charging the user a fee for the service. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to charge a fee for the use of a service so as to generate revenue. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with charging the user a fee for the service so as to generate revenue.

In regard to claim 11, the claimed limitations of “a tuner dedicated to receive a broadcast signal having a predetermined frequency range” and “an adapter, coupled to the tuner, operative to provide a video signal to a display device” are met by Item 300 of Figure 6 and 7. The claimed limitations “a local memory operative to store the broadcast signal, the local memory further storing at least a portion of a modifiable user profile and a unique identifier of the media element, the user profile including the viewing and additional preferences of the user” and “an electronic component operative to generate the video signal by modifying the characteristics of the broadcast signal in response to the user profile, wherein the video display characteristics are anonymously modified by the user profile” are met by Figure 1-3. Granger fails to explicitly disclose “a local memory operative to store the broadcast signal, the local memory further storing at least a portion of a modifiable user profile and a unique identifier of the media element, the user profile including the viewing and additional preferences of the

user" and "an electronic component operative to generate the video signal by modifying the characteristics of the broadcast signal in response to the user profile, wherein the video display characteristics are anonymously modified by the user profile". Maissel teaches "a local memory operative to store the broadcast signal, the local memory further storing at least a portion of a modifiable user profile and a unique identifier of the media element, the user profile including the viewing and additional preferences of the user" and "an electronic component operative to generate the video signal by modifying the characteristics of the broadcast signal in response to the user profile, wherein the video display characteristics are anonymously modified by the user profile" (See: Figure 2, Item 140; Figure 3) so as to allow the system select programs that may be of interest to the user and to make the profile of the user portable. "The optional viewer preference profile loading apparatus 160, if present, may be used to load a recorded viewer preference profile of another viewer, including a viewer who has used another apparatus, similar to that of FIG. 1, at a different time and place. Such a recorded viewer preference profile may be provided on any appropriate recording medium, may be broadcast via the television network, or may be delivered from profile storage apparatus by any appropriate means" (Paragraph 0204). "Optionally, the profile loading apparatus 160, if present, may also be operative to record a viewer preference profile on any appropriate recording medium such as, for example, a diskette or an appropriate smart card. The recorded viewer preference profile may then be provided to another viewer having apparatus similar to that of FIG. 1 for loading as described above"

(Paragraph 0206; Also see Paragraphs 0184-0203). Consequently, it would have been obvious to one of ordinary skill in the art to modify Granger with “a local memory operative to store the broadcast signal, the local memory further storing at least a portion of a modifiable user profile and a unique identifier of the media element, the user profile including the viewing and additional preferences of the user” and “an electronic component operative to generate the video signal by modifying the characteristics of the broadcast signal in response to the user profile, wherein the video display characteristics are anonymously modified by the user profile” for the stated advantage.

In regard to claim 15, see claims 6 and 7.

In regard to claim 16, it is inherent that the “electronic media element” has a “detection element” in order to allow the transfer of the profile to other media elements.

In regard to claim 17, the unique identifier is met by the user profile (See rejection of Claims 2 and 3).

In regard to claim 18, see claims 1 and 11.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger in view of Maissel et al. and further view of Beach et al. (US Pat No 6,728,713).

In regard to claim 8, the combined teaching discloses an audiovisual information management system. The reference fails to explicitly disclose the electronic purchase through a communications link and the tracking of purchases made by the user. The Beach reference teaches a communications link (Figure

1, Item 104 and 109) and the tracking of purchases made by the user so as to organize information for the user. "The invention describes a system which is fully distributed, in that calculations pertaining to an individual viewer are performed personally for that viewer within a local client device, while providing for the reliable aggregation and dissemination of information concerning viewing habits, preferences or purchases" (Col 4, Lines 52-56). Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with a communications link and the tracking of purchases made by the user so as to organize information for the user.

In regard to claim 9, the Beach reference discloses marinating the tracked purchases in a profile. "The invention describes a system which is fully distributed, in that calculations pertaining to an individual viewer are performed personally for that viewer within a local client device, while providing for the reliable aggregation and dissemination of information concerning viewing habits, preferences or purchases" (Col 4, Lines 52-56).

7. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger in view of Maissel et al. and further view of Sezan et al. (US Pat No 6,236,395).

In regard to claim 12, the combined teaching fails to explicitly disclose, "metadata is associated to identify segments of the broadcast signal and the viewing order of the segments is reorganized in response to the user profile". Sezan discloses "metadata is associated to identify segments of the broadcast signal and the viewing order of the segments is reorganized in response to the

user profile" so as to create a program highlight summary that will be of interest to the user (See: Figures 1-3). "The descriptors of the program description scheme and the user description scheme should overlap, at least partially, so that potential desirability of the program can be determined by comparing descriptors representative of the same information" (Col 6, Lines 39-43). The "selection of a particular program analysis technique depends on the amount of readily available data and the user preferences. For example, if a user prefers to watch a 5 minute video highlight of a particular program, such as a basketball game, the analysis module 42 may invoke a knowledge based system 90 (FIG. 3) to determine the highlights that form the best 5 minute summary" (Col 8, Lines 30-36). Consequently, it would have been obvious to one of ordinary skill in the art to modify the combined teaching with "metadata is associated to identify segments of the broadcast signal and the viewing order of the segments is reorganized in response to the user profile" for the stated advantage.

In regard to claim 13-14, the claimed limitations of "the reorganization of viewing segments is determined by matching the metadata with the contents of the user profile and "a processor capable of performing a comparison of the metadata and the data stored in the user profile" are met by that discussed above for claim 12.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM  
May 17, 2006



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600